

Notice of Allowability

Application No.

09/712,629

Examiner

Joseph E. Avellino

Applicant(s)

LEYMANN ET AL.

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment dated 10/18/04.
2. ☒ The allowed claim(s) is/are 1,3,5-7,9-17,19,21-23,25-33,35,37-39,41-48 (renumbered 1-39).
3. ☒ The drawings filed on 14 November 2000 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


BUN JOE JAROENCHONWANIT
PRIMARY EXAMINER

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Floyd Gonzalez on February 23, 2005.

The application has been amended as follows:

Amend the title as follows: Availability and scalability in clustered application servers by transmitting expected loads of clients to load balancer

Claim 3, line 2, after "claim" please delete "2" and insert -1--.

Claim 5, line 2, after "claim" please delete "4" and insert---1---.

Claim 6, line 2, after "claim" please delete "4" and insert ---1---.

Claim 15, line 2, after "claim" please delete "4" and insert ---1---.

Claim 19, line 2, after "claim" please delete "18" and insert ---17---.

Claim 21, line 2, after "claim" please delete "20" and insert ---17---.

Claim 22, line 2, after "claim" please delete "20" and insert ---17---.

Claim 31, line 2, after "claim" please delete "20" and insert ---17---.

Claim 35, line 2, after "claim" please delete "34" and insert ---33---.

Claim 37, line 2, after "claim" please delete "36" and insert ---33---.

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Claim 38, line 2, after "claim" please delete "36" and insert —33—.

Claim 47, line 2, after "claim" please delete "36" and insert ---33---.

2. The following is an examiner's statement of reasons for allowance:

The invention discloses a novel method of workload balancing which uses expected workload data sent by the client in determining which server to route requests to. The expected load on the client is transmitted by the client at the same time the request for service is provided. Based on the estimated expected load, the load balancing mechanism determines the subset of clustered servers to return to the client to handle processing of expected work requests. By this, in conjunction with the other limitations of the independent claims, render this case in condition for allowance.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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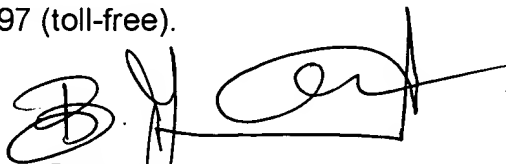
Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
4. Cubero-Castan et al. (USPN 5,239,653) discloses switching device for balancing load in communication network based on sourced and destination load information and internal load information.
5. Cherry (USPN 6,493,446) discloses a call-center posting program.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


BUNJOB JAROENCHONWANIT
PRIMARY EXAMINER

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JEA

February 22, 2005

A handwritten signature, possibly reading 'A', is located in the bottom left corner of the page.